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United States District Court  
Southern District of New York X

DAVONTE HAMILTON,

**18CV8361**

PLAINTIFF,

V.

1. Westchester County; 2 CORRECT CARE SOLUTIONS, LLC; 3 MEDICAL DIRECTOR RAUL ULLOA; 4. Westchester County DEPARTMENT OF CORRECTIONS COMMISSIONER JOSEPH K. SPANO; 5. ASSISTANT WARDEN FRANCIS DELGROSSO; 6. ASSISTANT WARDEN KARL VOLLMER; 7. ACTING DEPUTY COMMISSIONER LEANDRO DIAZ,

Verified  
Complaint  
Jury trial  
Demanded

Defendants.

----- X  
Plaintiff pro-se states as follows:

PRELIMINARY STATEMENT

1. This is a Civil Rights Action in which plaintiff DAVONTE HAMILTON, seeks relief for Defendants' violation of his

Rights AS SECURED BY THE CIVIL RIGHTS ACT  
of 1871, 42 U.S.C. § 1983 And By the Eighth,  
And Fourteenth AMENDMENTS to the U.S.  
Const. Plaintiff further asserts MONELL  
CLAIMS AGAINST defendants. Plaintiff seeks  
COMPENSATORY, PUNITIVE, NOMINAL DAMAGES,  
AN AWARD OF COST, INTEREST, AND SUCH OTHER  
AND FURTHER RELIEF AS THIS COURT DEEMS JUST  
AND PROPER.

### Jurisdiction And Venue

2. This Action is Brought PURSUANT to  
42 U.S.C. § 1983, Eighth, Fourteenth AMEND-  
MENTS, to the U.S. Const., AND VIOLATION OF  
THE AMERICANS WITH DISABILITIES ACT  
("ADA"). Jurisdiction is CONFERRED UPON  
THIS COURT BY 28 U.S.C §§ 1331 AND 1343,  
THIS BEING AN ACTION SEEKING REDRESS  
FOR THE VIOLATION OF THE Plaintiff  
CONSTITUTIONAL AND CIVIL RIGHTS.

3. VENUE IN THIS DISTRICT IS PROPER UNDER 28 U.S.C. § 1391(B) AND (C) IN THAT THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED WITHIN THIS DISTRICT OF SOUTHERN DISTRICT OF NEW YORK.

### PARTIES TO THE ACTION

4. PLAINTIFF IS A UNITED STATES CITIZEN OVER THE AGE OF 18, AND RESIDES AT THE WESTCHESTER COUNTY DEPARTMENT OF CORRECTIONS ("WC DOC").

5. DEFENDANT WESTCHESTER COUNTY IS AND WAS AT ALL TIMES RELEVANT HEREIN A MUNICIPAL ENTITY CREATED AND AUTHORIZED UNDER THE LAWS OF THE STATE OF NEW YORK. IT IS AUTHORIZED BY LAW TO MAINTAIN A DEPARTMENT OF CORRECTIONS WHICH ACTS AS ITS AGENT, AND FOR WHICH IT IS ULTIMATELY RESPONSIBLE. DEFENDANT WESTCHESTER COUNTY, ASSUMES THE RISKS INCIDENTAL TO THE EMPLOYMENT OF CORRECTIONAL STAFF AND CONTRACTORS. DEFENDANT WAS AT TIMES RELEVANT HEREIN THE PUBLIC EMPLOYER OF DEFENDANTS CORRECTIONAL STAFF AND MEDICAL DEFENDANTS' THROUGH CONTRACT.

6. DEFENDANT CORRECT CARE SOLUTIONS, LLC, WAS AT ALL TIMES RELEVANT AN OUT SOURCED MEDICAL COMPANY PROVIDING MEDICAL TREATMENT TO INMATES OF THE WCDOC THROUGH CONTRACT WITH DEFENDANT WEST-CHESTER, COUNTY, THUS PERFORMING A PUBLIC FUNCTION.

7. DEFENDANT RAUL ULLOA, WAS AT ALL TIMES RELEVANT THE MEDICAL DIRECTOR AT WCDOC ON BEHALF OF DEFENDANT CORRECT CARE SOLUTIONS, LLC ("CCS") HE IS RESPONSIBLE FOR ORDERING SPECIFIC TREATMENTS, SCHEDULING SPECIALIST APPOINTMENTS, PRESCRIBING / AUTHORIZING TREATMENTS, AND DIRECTING HOUSING LOCATIONS OF INJURED INMATES.

8. DEFENDANT JOSEPH K. SPANO, WAS AT ALL TIMES RELEVANT THE COMMISSIONER OF WCDOC RESPONSIBLE FOR THE CONDITIONS OF CONFINEMENT AT WCDOC.

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9. DEFENDANT FRANCIS DEGIROSSO, WAS AT ALL TIMES RELEVANT AN ASSISTANT WARDEN AT WCDOC RESPONSIBLE FOR THE CONDITIONS OF CONFINEMENT AT WCDOC, RESPONDING TO GRIEVANCE(S), AND HE IS FURTHER RESPONSIBLE FOR CONDUCTING IN PERSON ROUNDS OF WCDOC FOR UNSAFE PRISON CONDITIONS.

10. DEFENDANT KARL VOLLMER, WAS AT ALL TIMES RELEVANT AN ASSISTANT WARDEN AT WCDOC RESPONSIBLE FOR THE CONDITIONS OF CONFINEMENT AT WCDOC, RESPONDING TO GRIEVANCE(S), AND HE IS FURTHER RESPONSIBLE FOR CONDUCTING DAILY IN PERSON ROUNDS OF WCDOC TO IDENTIFY ANY HAZARDOUS CONDITIONS OF CONFINEMENT AT WCDOC.

11. DEFENDANT LEANDRO DIAZ, WAS AT ALL TIMES RELEVANT AN ACTING DEPUTY COMMISSIONER AT WCDOC RESPONSIBLE FOR CONDITIONS OF CONFINEMENT AT WCDOC, AND FURTHER RESPONSIBLE FOR IDENTIFYING HAZARDOUS CONDITIONS THROUGH DAILY ROUNDS AND IN PERSON INSPECTIONS.

12. All defendants are sued in their individual and official capacities.

13. All defendants were acting under color of law.

### Statement of Facts

14. On August 21, 2018 while confined to the Westchester County Department of Corrections ("WCDOC") plaintiff opted to participate in recreation and was picked up by correctional staff (along with other prisoners) and escorted to the "old jail" large yard.

15. Plaintiff and several of my fellow inmates, decided to engage in a full court basketball game. During the game plaintiff stepped into a crumbled piece of concrete, that was cracked and missing portions. This caused me a knee dislocation and a torn meniscus. Upon further inspection of the floor, plaintiff noticed, that the entire flooring was in said condition, and had been for an extended duration (30 years).



16. THEREAFTER PLAINTIFF WAS RETURNED TO HIS HOUSING UNIT 1-EAST. THE 1-EAST HOUSING UNIT ALSO HAS CRACKED, BROKEN, AND FLOORING THATS MISSING PORTIONS, WITHIN GENERAL WALK WAYS MAKING IT DIFFICULT TO NAVIGATE.

17. MORE OVER THE SHOWER IN 1-EAST DID NOT HAVE A BENCH AND/OR A RAIL TO ASSIST PLAINTIFF AS A HANDICAP INDIVIDUAL. FURTHERMORE, THE FLOORING DID/DOES NOT HAVE RUBBER MATTS (OUTSIDE SHOWER CONCRETE). AND THE SHOWER REQUIRES ANY ONE THAT IS ENTERING IT TO MAKE AN APPROX. 2 1/2 FOOT, UPWARD STEP TO GET INTO THE SHOWER (WHILE HUNCHING OVER) WITHOUT ASSISTANCE, AND A 2 1/2 FOOT DROP STEP TO EXIT WHICH NEEDLESSLY CAUSED PLAINTIFF EXCRUCIATING PAIN WHEN ENTERING AND EXITING THE SHOWER. MOREOVER, PLAINTIFF WAS FORCED TO STAND WITH HIS CRUTCHES IN THE SHOWER AND TRY TO SHOWER WHICH ALWAYS SEEMED PHYSICALLY IMPRACTICAL.

18. ON SEPTEMBER 5, 2018 PLAINTIFF PARTICIPATED, IN A FAMILY VISIT UPON EXITING THE VISIT, PLAINTIFF WAS DIRECTED TO A STRIP FRISK, DESPITE THE FACT THAT PLAINTIFF DID HAVE A (PHYSICAL INJURY) AND WAS MOBILIZING WITH CRUTCHES, OFFICERS FORCED HIM TO STAND ON HIS INJURY

CAUSING SEVERE PAIN AS THE VISIT SEARCH AREA DOES NOT HAVE A BENCH AND/OR RAILS TO ASSIST him while undressing and dressing. AS SUCH, PLAINTIFF WAS FORCED TO ENDURE EXCRUCIATING PAIN NEEDLESSLY.

19. ON BELIEF, THIS VIOLATES THE AMERICANS WITH DISABILITIES ACT OF SEC. 504 AND/OR OTHER STATUTES.

20. PLAINTIFF FURTHER AVERS, THAT HE COULD NO LONGER ATTEND RECREATION OUTSIDE (THE ONLY RECREATION OFFERED) BECAUSE HE HAS TO WALK UP AND DOWN STAIRS TO REACH SAID AREAS, AND THERE ARE NO RAMPS.

21. RETURNING TO PLAINTIFF'S HOUSING HE FURTHER AVERS, THAT HIS CELL FLOOR IS CONCRETE THAT IS ALSO MISSING PORTIONS, AND CRUMB-ling IN SEVERAL AREAS.

22. MOREOVER, THE 1-EAST HOUSING UNIT DOES NOT HAVE ADEQUATE VENTILATION, AS THE WINDOWS REMAIN CLOSED, THERE IS NO CENTRAL AIR OR EXHAUST. AS SUCH, THE AIR IS HUMID AND STAGNATED MAKING IT DIFF-icult, TO BREATHE, AND THE CEILINGs INCLUD-ing, MY CELL GETS COVERED IN WATER DROPS WHICH CREATES RUST, AND THEN THE RUST WATER DRIPS EVERY WHERE E.G. ON YOU, YOUR BED AND PERSONAL ITEMS.



23. PLAINTIFF AVERS, THAT HE FILED A GRIEVANCE, REGARDING THE CONDITION OF THE COURT YARD, AND IT WAS SUBSEQUENTLY CLOSED, BUT NOT REPAIRED.

24. PLAINTIFF FILED HIS GRIEVANCE WITH SERGEANT HOLLIS.

25. SEPERATELY, PLAINTIFF ATTEMPTED TO FILE A GRIEVANCE WITH SERGEANT KITT IN OR AROUND SEPTEMBER 4, 2018 REGARDING THE UNBEARABLE - HEAT, POOR AIR CIRCULATION, NO EXHAUST, AND THE SHOWER STEAM CAUSING HIS CELL CEILING (AMONGST OTHERS) TO BE COVERED IN WATER DROPS THAT DRIPPED RUST WATER ONTO PLAINTIFF, AND MOST OF THE CELL. BUT SERGEANT KITT REFUSED PLAINTIFFS GRIEVANCE AND STATED "IM SICK OF YOU FUCKING CRY BABIES THIS IS JAIL HANDLE IT" AND REFUSED TO ACCEPT MY GRIEVANCE.

26. PLAINTIFF AVERS, THAT THE CONDITION, (FLOORING) OF THE LARGE COURT YARD WAS KNOWN TO DEFENDANTS SPANO, DELGROSSO, VOLLMER, AND DIAZ, THROUGH GRIEVANCE REPORTS, PREVIOUS INMATE INJURIES ON THE SAME COURT YARD, PERSONAL INSPECTIONS, BUT THEY FAILED TO TAKE ANY ACTION ONCE THIS WAS BROUGHT TO THEIR ATTENTION.

27. MOREOVER, THEY HAVE BEEN ON NOTICE, OF THE CONDITIONS OF CONFINEMENT IN THE OLD JAIL HOUSE UNITS "1-EAST" WITH REGARD TO THE POOR VENTILATION, DAMAGED FLOORING, LACK OF BENCHES AND/OR SHOWER RAILS TO ASSIST HANDICAP INMATES, AND MORE SHOCKINGLY, THE 2 1/2 UPWARD AND DOWNWARD STEP INMATES MUST MAKE IN ORDER TO ENTER AND EXIT THE SHOWER ONTO A WAXED SLIPPERY FLOOR, BUT THEY HAVE TAKEN NO ACTION. THEY HAVE LEARNED OF THIS THROUGH PLAINTIFFS GRIEVANCES, AND OTHER GRIEVANCES FILED FOR SIMILAR/IDENTICAL CLAIMS OR CONCERNS.

28. FURTHER MORE, DEFENDANTS HAD DAILY MEETINGS WHERE GRIEVANCES ARE DISCUSSED.

29. DEFENDANT RAUL ULLOA IS BEING SUED AS HE IS THE MEDICAL DIRECTOR OF C.C.S, AND WITH THE AUTHORITY VESTED IN HIM HE CAN ORDER PLAINTIFF TO RECEIVE TREATMENT AS DIRECTED BY WESTCHESTER MEDICAL CENTER ON AUG. 27<sup>th</sup>, 2018 ("IMMEDIATE MRI"), BUT HE HAS UNNECESSARILY DISREGARDED THE INSTRUCTIONS OF SAID MEDICAL AUTHORITIES, CAUSING PLAINTIFFS INJURY TO SETTLE.

30. FURTHER MORE, THE ACE BANDAGE THAT N.P.U. SUBSTITUTED FOR THE "KNEE STABILIZER" IS NOT EFFECTIVE, AND CAUSES PLAINTIFF SEVERE PAIN. CCS, AND DIRECTOR ULLOA HAVE

IGNORED AFTER CARE TREATMENT FOR PLAINTIFFS  
KNEE, AND FAILED TO ORDER HIM PLACED IN A  
HOUSING UNIT, THAT DOES NOT REQUIRE  
[PLAINTIFF] TO CLIMB STAIRES TO GO TO  
RECREATIONS OR TO SHOWER.

31. SUCH DELAY AMOUNTS TO DELIBERATE  
INDIFFERENCE AS THE INITIAL RESPONSE TO  
HIS INJURY WAS REASONABLE, BUT THE SUB-  
SEQUENT, TREATMENT THEREAFTER CAN BE  
CHARACTERIZED AS A "deliberate indifference"  
AS PLAINTIFF'S KNEE IS COMPLETELY NUMB,  
AND HE FEELS A THROBBING PAIN AND HIS  
KNEE FEELS AS THOUGH ITS "WOBBLING" MAKING  
IT ALMOST IMPOSSIBLE TO NAVIGATE WITH  
CRUTCHES AS STANDING CAUSES EXCRUCIATING  
PAIN.

32. ON BELIEF, THE KNEE STABILIZER,  
THAT WAS CONFISCATED WAS ESSENTIAL IN  
MAINTAINING HIS KNEE STRAIGHT Juxtaposed  
TO THE ACE BANDAGE.

33. ON BELIEF, DEFENDANTS HAVE  
DELAYED PLAINTIFFS MRI IN ATTEMPT TO  
SHIFT COST TO THE FEDERAL BUREAU OF  
PRISONS UPON HIS TRANSFER.

34. ON BELIEF, THE DELAY IN GETTING  
PLAINTIFF AN MRI IS UNREASONABLE, AND THE  
CONFISCATION OF HIS KNEE DEVICE FOR A NON-  
EFFECTIVE ACE BANDAGE IS CRUEL AND UNUSUAL  
PUNISHMENT, AND DELIBERATE INDIFFERENCE.

CLAIMS OF PRISON CONDITIONS, CRUEL UNUSUAL PUNISHMENT + DELIBERATE INDIFFERENCE IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONST. AGAINST ALL DEFENDANTS.

35. PLAINTIFF REPEATS, REITERATES AND ASSERTS EACH AND EVERY ALLEGATION CONTAINED IN THE PREVIOUS PARAGRAPHS WITH THE SAME FORCE AND EFFECT AS IF FULLY SET FORTH HEREIN.

36. AT ALL TIMES DESCRIBED HEREIN THE CONDITIONS OF CONFINEMENT WERE ATROCIOUS, AND VIOLATED ALL BOUNDS TOLERATED BY A CIVILIZED SOCIETY.

37. ALL OF THE AFOREMENTIONED ACT(S) DEPRIVED PLAINTIFF OF THE RIGHTS, PRIVILEGES, AND IMMUNITIES GUARANTEED TO CITIZENS OF THE UNITED STATES BY THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONST. AND IN VIOLATION OF 42 U.S.C. § 1983.

38. THE ACTS COMPLAINED OF WERE INHUMANE AND NOT RELATED TO A PENALOGICAL INTEREST.

AS FOR A SECOND CAUSE OF ACTION  
VIOLATION OF THE AMERICANS WITH DISABILITY ACT SEC. 504

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31. PLAINTIFF hereby REPEATS, REITERATES, AND ASSERTS EACH AND EVERY ALLEGATION CONTAINED IN THE PREVIOUS PARAGRAPH WITH THE SAME FORCE AND EFFECT AS IF FULLY SET FORTH HEREIN.

40. DEFENDANTS AS A MUNICIPAL SUB-DIVISION, OF THE STATE OF NEW YORK WHO HOUSES FEDERAL PRISONERS, (AS PLAINTIFF) DO RECEIVE FEDERAL FUNDING TO OPERATE.

41. DEFENDANTS HAVE VIOLATED THE ADA BY  
① FAILING TO MAINTAIN AN AREA IN THE FACILITY VISIT ROOM SEARCH AREA (OR BOOKING DEPARTMENT) TO SEARCH HANDICAP PRISONERS WITH CRUTCHES OR/AND IN WHEEL CHAIRS.

42. FURTHERMORE, THE AFORESAID STATUE WAS VIOLATED WHEN DEFENDANTS HOUSED PLAINTIFF IN A HOUSING UNIT "1-EAST" THAT CONTAINED A SHOWER (FOR HIS USE) WITH A 2½ FOOT UPWARD STEP TO ENTER THE SHOWER, AND ATTEMPTING TO FORCE HIM TO ENGAGE IN RECREATION - BY CLIMBING STAIRS. BECAUSE NO RAMP OR FLAT SURFACE WAS AVAILABLE.

43. AS SUCH PLAINTIFF WAS DAMAGED AND SEEKS REDRESS.

AS FOR A THIRD CAUSE OF ACTION  
AGAINST WESTCHESTER COUNTY MUNICIPAL LIABILITY 42 U.S.C. § 1983



44. PLAINTIFF hereby REPEATS, REITERATES, AND ASSERTS EACH AND EVERY ALLEGATION CONTAINED IN THE PREVIOUS PARAGRAPHS WITH THE SAME FORCE AND EFFECT AS IF FULLY SET FORTH HEREIN.

45. DEFENDANTS HERE FAILED TO ADEQUATELY TRAIN, AND SUPERVISE DEFENDANTS, WHO HAVE A CUSTOM AND USAGE OF ALLOWING HAZARDOUS CONDITIONS TO REMAIN DANGEROUS UNTIL SOMEONE IS HURT, AND EVEN THEN MOST OF THE TIME THE CONDITION REMAINS IN EFFECT EXPOSING WCDOC INMATES TO SERIOUS PHYSICAL INJURIES. THE COUNTRY HAS GROSSLY SUPERVISED ITS EMPLOYERS FOR SUCH A DURATION, THAT THEY ARE THE CONSTANT TARGETS OF FEDERAL LAWSUITS IN THIS COURTHOUSE FOR SIMILAR CONDUCT.

AS FOR A FOURTH CAUSE OF ACTION  
CLAIMS OF CRUEL UNUSUAL PUNISHMENT AGAINST ALL DEFENDANTS.

46. PLAINTIFF hereby REPEATS, REITERATES, AND ASSERTS EACH AND EVERY ALLEGATION CONTAINED IN THE PREVIOUS PARAGRAPHS WITH THE SAME FORCE AND EFFECT AS IF FULLY SET FORTH HEREIN.



47. DEFENDANTS ACTED WITH MENS AREA when they forced him to place his weight on his (R) KNEE on two SEPERATE OCCASSIONS DURING FAMILY VISITS. IN ADDITION, FORCING PLAINTIFF TO SHOWER WHILE STANDING ON CRUTCHES, AND HAVING TO CLIMB A STAIR (2 1/2 FOOT) TO ENTER AND EXIT THE SHOWER IN 1-EAST.

48. AS SUCH, PLAINTIFF WAS DAMAGED AND SEEKS REDRESS.

49. IN OR AROUND AUG. 28, 2018 AFTER 3PM. ON 1-EAST PLAINTIFF FILED A GRIEVANCE WITH SERGEANT HOLLIS (WHICH HE ACCEPTED), BUT HE FAILED TO RESPOND WITHIN (5) BUSINESS DAYS AS OUTLINED WITHIN MINIMUM STANDARDS, GOVERNING COUNTY JAILS. AS SUCH, SERGEANT'S HOLLIS FAILURE TO TIMELY RESPOND, PROMPTED PLAINTIFF TO FILE AN APPEAL REQUEST - DIRECTED TO GRIEVANCE COORDINATOR, WHICH WAS NEVER ANSWERED OR RESPONDED TO. THE FILING OF SAID GRIEVANCE WAS CAPTURED ON SURVEILLANCE VIDEO.

WHEREFORE, PLAINTIFF DEMANDS RELIEF JOINTLY AND SEVERALLY AGAINST ALL OF THE DEFENDANTS FOR COMPENSATORY DAMAGES IN THE AMOUNT OF \$350,000. PUNITIVE DAMAGES IN THE AMOUNT OF \$1,000,000 AGAINST ALL DEFENDANTS.

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And Cost interest And Such other  
And further Relief AS this Court deems  
Just And proper.

DATED: SEPTEMBER 9 2018  
VALHALLA, NY

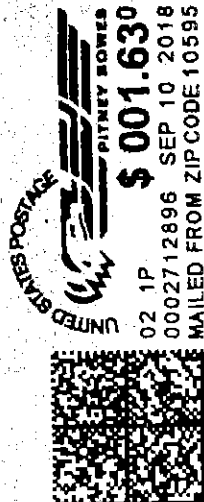
By: Davonte Hamilton  
DAVONTE HAMILTON  
JID NO. 253217  
P.O BOX 10  
VALHALLA, NY 10595

I DAVONTE HAMILTON, STATE I AM THE  
PLAINTIFF IN THE ABOVE CAPTIONED MATTER, AND  
I DECLARE UNDER PENALTY OF PERJURY PURSUANT  
TO 28 U.S.C. § 1746 THAT I HAVE READ THE FORE-  
GOING VERIFIED COMPLAINT AND IT IS TRUE AND  
CORRECT TO THE BEST OF MY KNOWLEDGE  
EXCEPT FOR THE MATTERS I ALLEGE TO BE ON  
INFORMATION AND BELIEF AND EVEN THOSE  
MATTERS I BELIEVE THEN TO BE TRUE.  
EXECUTED ON 9 SEPTEMBER 2018.

x Davonte Hamilton

Devonte Hamilton  
JID 253217  
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Valhalla, N.Y. 10595

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